

REMARKS/ARGUMENTS

Claims 1-21 are pending in this application. In response to the Restriction Requirement and Election in the Office Action mailed September 14, 2007, Applicants have elected Group 1, drawn to a compound of formula I and method of treating diseases, with traversal for further prosecution on the merits. As discussed below, claims 1-9 and 13-14 are drawn to a compound of formula I and method of treating diseases. Therefore, claims 10-12 and 15-21 have been withdrawn herein as being drawn to non-elected subject matter.

A petition for a 3-month extension of time under 37 CFR 1.136(a) and required petition fee under 37 CFR 1.17(a) accompanies this response.

Election/Restriction

The Action has restricted the claims into one of the following inventions under 35 U.S.C. §121 and has required an election of one of these groups for further prosecution:

- Group 1.** Claims 1, 10, 11 and 13-16 drawn to a compound of formula I and method of treating diseases, classified in class 562, subclass 7+;
- Group 2.** Claims 2-9 drawn to compounds, classified in class 562, subclass 7+;
- Group 3.** Claims 12, 17 and 18 drawn to a compound of formula III and method of treating diseases, classified in class 562, subclass 7+;
- Group 4.** Claims 19 and 20 drawn to a method of inhibiting MDM2 with a compound of formula I, classified in class 514, subclass 18+; and
- Group 5.** Claim 21 drawn to a method of inhibiting MDM2 with a compound of formula III, classified in class 514, subclass 2+.

In response, Applicants hereby elect **Group I**, claims 1, 10, 11 and 13-16 drawn to a compound of formula I and method of treating diseases with traversal, for further prosecution.

In traversing this rejection, Applicants respectfully point out that the claims in Groups 1, 2 and 4 have been misclassified by the Action. In particular, the claims in these groups have been misclassified as follows:

Group 1 includes claims 1, 10, 11 and 13-16 drawn to a compound of formula I and method of treating diseases. Claims 10 and 11 however, are drawn to a compound of formula II; and claims 15 and 16 are drawn to a method of treating diseases with a compound of formula II. Of these claims, only claims 1, 13 and 14 are drawn to a compound of formula I and method of treating diseases using the compound of formula I.

Group 2 includes claims 2-9 drawn to compounds. Claims 2-9 however, are dependent from independent claim 1, which is drawn to a compound of formula I. Moreover, claims 2-9 are species claims of the genus of compounds of formula I described in claim 1.

Group 4 includes claims 19 and 20 drawn to a method of inhibiting MDM2 with a compound of formula I. While claim 19 is directed to a method of inhibiting MDM2 with a compound of formula I, Claim 20 however, is drawn to a method of inhibiting MDM2 with a compound of formula II.

In view of these discrepancies, Applicants respectfully request reconsideration of the above grouping of claims. As stated above, Applicants wish to elect Group 1, i.e., the group of claims which encompasses a compound of formula I, i.e., claims 1-9; and methods for treating diseases using a compound of formula I, i.e., claims 13 and 14.

Next, Applicants respectfully submit that it would not impose an undue burden on the examiner to conduct a search and prosecute all the claims in a single application. Applicants point out that the claims in Groups 1, 2 and 3 have been characterized by the Office as belonging to the same class and subclass, i.e. class 562 and subclass 7+. Thus, the claims in these groups have not acquired a separate status in the art. Moreover, the claims in Groups 1 and 2 are related to each other as genus and species claims. Also, the claims in Groups 1 and 4 are related as encompassing the compounds of formula I and methods for inhibiting MDM2 using the compounds of formula I, respectively. Furthermore, the claims in Groups 4 and 5 are related because each of these groups claim methods for inhibiting MDM2 with a compound of the disclosure. Thus, a different field of search would not be required for the claims in Groups 1-5

because these groups are similarly classified and/or contain related subject matter and therefore, would employ similar search queries. Finally, due to the similarities of the claims in Groups 1-5, it is not likely that different non-prior art issues would be raised under 35 U.S.C §101 and/or 35 U.S.C. §112, first paragraph. For all of these reasons, Applicants respectfully submit that the requirement for restriction be reconsidered and removed.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 858-350-6100.

Respectfully submitted,



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